(3)

(5)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) NO. 57 /~~2006~~ 2007 Single Bench

APPELLANT:

Kamlesh Sonker,Aged 35Years,
S/o Jayanti Sonker,
R/o Ward.No. 23, camp-2 Bhilai,
District Durg(C.G)

VERSUS

RESPONDENTS

1.. Kailash@ Maniram S/o Baisakhulal Chandraker, R/o Bhaisbeed (Mahka) Post Phunda, Police Station Mungeli, District Bilaspur
(Driver Of Offending Vehicle Mahindra Bolero Reg. no.MP26/TR/373)

2. Puranik Chandraker
S/o Parasram Chandraker,
R/o Post: Nanpuri, Police Station Pandaria, District Kawardha (C.G)
(Owner of offending vehicle Mahindra Bolero Reg. no.MP26/TR/373)

3. The Oriental Insurance Company Ltd., Through :Regional Manager Malviya Nagar, Chowk, Durg
(Insurance Company of offending vehicle Mahindra Bolero Reg. no.MP26/TR/373)

P.R. No. 3925/06
Presented by Shri Anurag Jha
dated 22.12.06

APPEAL UNDER SECTION 173 OF MOTOR VEHICLE ACT

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(31)

मामला क्रमांक M.A.(C).No.57/'07 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15.01.2007

Shri Anurag Jha, Counsel for the appellant.

Heard on admission.

The appellant is aggrieved by an award dated 26.06.2006 passed by the X[th] Additional Motor Accident Claims Tribunal, (F.T.C.), District-Durg (C.G.) in Claim Case No.145/2005 whereby in an injury case compensation of Rs.31,978/- along interest @ 6% from the date of application till the recovery was awarded.

Shri Anurag Jha, learned counsel for the appellant argued that the learned Claims Tribunal ought to have considered that the claimant had suffered 10% permanent disability in his right ankle and therefore prays that the compensation awarded by the learned Claims Tribunal is not just and reasonable compensation and deserves to be enhanced in this appeal. Learned counsel for the appellant has furnished certified copy of the statements of the claimant and Dr. Akhilesh Yadav recorded by the learned Claims Tribunal which are taken on record.

Learned counsel for the appellant submitted that the first information report and other documents proved by the claimant established that the claimant had suffered permanent disability and therefore compensation awarded by the learned Claims Tribunal is inadequate.

Having heard learned counsel for the appellant, it is seen that the claimant did not file the X-Ray report before the learned Motor Accident Claims Tribunal and treating Doctor was also not examined by the claimant. So far as the testimony of Dr. Akhilesh Yadav A.W.-2 is concerned, he was not the treating Doctor and examined the claimant on 28-02-2006 whereas the accident occurred on 16-04-2005. Dr. Akhilesh

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A.(C.) No.57/'07 **सन् 200**

(32)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Yadav, A.W.-2 has admitted in his cross-examination that he was unable to give opinion whether the injury in the right ankle of the claimant was sustained by the claimant in the accident.

Considering the evidence led by the claimant and the abovementioned facts, I am of the considered opinion that the compensation of Rs.31,978/- awarded by the learned Claims Tribunal cannot be faulted with.

In the result, this Miscellaneous Appeal (C) No.57/2007 being devoid of merit and is dismissed at the stage of admission.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Tumane

P.T.O.